



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,352	01/30/2001	Caesar Berger	18995-80141 (44862)	2572
7590	07/20/2006		EXAMINER	
Edward G. Poplawski, Esq. SIDLEY & AUSTIN 555 West Fifth Street Los Angeles, CA 90013-1010			KYLE, CHARLES R	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/774,352	BERGER ET AL.	
Examiner	Art Unit		
Charles Kyle	3624		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 May 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 14-18 and 24-35 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 14-18, 24-35 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____ .
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____ . 5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,675,153 *Cook et al* in view of *Homestead.com enables e-tailers to accept credit cards without a merchant account*, hereinafter, *Homestead*.

As to Claim 14, *Cook* discloses the invention substantially as claimed, including in an e-commerce transaction system for processing payment for goods or services offered by a merchant and selected for purchase by a customer using an established electronic payment vehicle, the system comprising:

(a) a communications network (Abstract; Fig. 1; Col. 4, line 42 to Col. 7, line 36);
(b) a merchant-hosting entity computer system connected to the network, the merchant-hosting entity computer system including a server (Fig. 3, ele. 108) that hosts a merchant-hosting entity site and a merchant e-commerce site whereat payment information from the established electronic payment vehicle may be entered to pay for the selected goods or services (Figs. 1 & 3, ele. 106),

a database containing a table for storing merchant identification data, customer identification data, and the payment information (Fig. 4, eles. 414-420; Col. 12, line 41 to Col.

13, line 57), and an application program interface wrapper that integrates the merchant's e-commerce site with the merchant-hosting entity site (Summary of the Invention);

(c) an electronic payment gateway computer system connected to the network and in communication with the merchant-hosting entity computer system, that stores the merchant identification data (Fig. 4, ele. 102 and related text); and

(d) an electronic payment processing authority computer system in communication with the payment gateway computer system that authorizes the customer payment for the selected goods or services (Fig. 1, ele. 104).

Cook does not specifically disclose payment processing account without resort to a permanent payment processing account associated with the merchant. *Homestead* discloses this at pages 1-2. Note that *Homestead.com* is read as the merchant hosting entity and that this entity clearly allows a merchant to process payments without a permanent payment processing account. See lines 4-9 of the first paragraph of page 1 of *Homestead*. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Cook* with the merchant account services disclosed by *Homestead* because this would allow a merchant to process credit card sales without incurring the regular fees of a merchant account and learning complex technology, as set forth by *Homestead* at page 1, paras. 1 and 2.

As to Claim 15, *Cook* discloses use of credit card at Summary of the Invention, at least.

As to Claim 16, *Homestead* discloses hosting plural websites for merchant account services at page 1, paras. 1-3 and that the *Homestead* entity is separate from user sites at the same citation. See homestead.com web address.

As to Claim 17, *Cook* discloses a merchant website at Background.

As to Claim 18, Official Notice is taken that it was old and well known to access websites telephonically. For example, the use of a modem and telephone to connect to a website was a common e-commerce method. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the use of a telephone and modem to access a merchant site because this would make the site accessible to persons lacking broadband connection to the Internet.

Claims 24-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,675,153 *Cook et al* in view of *Homestead.com enables e-tailers to accept credit cards without a merchant account*, hereinafter, *Homestead* and further in view of *Electronic Payment Systems*, hereinafter, *O'Mahony*.

As to Claim 24, *Cook* discloses the invention substantially as claimed including in a method of conducting an e-commerce transaction over a network (Summary of the Invention, particularly Col. 3, lines 16-26), steps of:

accepting payment information provided by a customer on an e-commerce site associated with a merchant (Col. 6, lines 29-53);
receiving merchant identification information associated with the merchant and the payment information (Col. 9, lines 24-34);

communicating the payment information and merchant identification information to a payment gateway entity (Fig. 3, Arrow 8, Col. 11, line 46 to Col. 12, line 4), and forwards the payment information and merchant identification information to a financial processing authority for payment authorization (Fig. 3, Arrow 9, Col. 12, lines 5-12);

and,

notifying the merchant of the payment authorization (Fig. 3, Arrow 11; Col. 12, lines 12-15).

Cook does not specifically disclose that a merchant-hosting entity provides the functionality of maintaining a permanent payment processing account that allows a merchant to conduct e-commerce transactions without a permanent payment processing account associated with the merchant. *Homestead* discloses this at pages 1-2. Note that Homestead.com is read as the merchant hosting entity and that this entity clearly allows a merchant to process payments without a permanent payment processing account. See lines 4-9 of the first paragraph of page 1 of *Homestead*. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Cook* with the merchant account services disclosed by *Homestead* because this would allow a merchant to process credit card sales without incurring the regular fees of a merchant account and learning complex technology, as set forth by *Homestead* at page 1, paras. 1 and 2.

Cook does not specifically disclose that the payment gateway entity validates that the merchant is authorized to process transactions. *O'Mahony* discloses such validation at pages 90-92, at least. It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify *Cook* with the merchant validation disclosed by *O'Mahony* because this would prove to other parties that the merchant had *bona fides* to perform transactions. See *O'Mahony* at page 90, para. following the 4.7.3 2KP title.

Regarding Claim 25 and 26, see *Cook* at Col. 7, lines 61-65 which discloses a purchase amount and Summary and Background of the invention, which disclose use of credit cards.

With Respect to Claim 27, *Homestead* discloses goods selection at an e-commerce site at page 2, first full para.

With Respect to Claim 28, *Homestead* discloses submitting customer identification data at page 2, para. 1.

With Respect to Claim 29, *Cook* discloses customer name ands delivery information at Summary of the Invention.

Regarding Claim 30, *Homestead* refers to plural merchant sites as the plural, “users”.

With Respect to Claim 31, *Homestead* discloses separate entities at page 1, para. 1.

With Respect to Claims 32 and 33, see the discussion of Claims 24 and Claims 17 and 18.

Regarding Claim 34, *Cook* discloses notifying the customer of transaction authorization at Col. 19, lines 13-22.

Regarding Claim 35, *Cook* discloses settlement at Col. 9, lines 18-22.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are either addressed above or are moot in view of the new ground(s) of rejection. The arguments presented appear to relate only to claim limitations in new claims 24-35. The rejection of Claims 14-18 is restated.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

crk
July 14, 2006

CHARLES R. KYLE
PRIMARY EXAMINER

